


NAVAL POSTGRADUATE SCHOOL
REPORT OF INVESTIGATION
NIGHTS #201202839
12 NOVEMBER 2012

1. Investigator and Identifying Information and Location of Working Papers.

a. Investigator and Identifying Information.

(b)(6), (b)(7)c



2. Background and Summary.

a. Hotline Control Number, Date of Receipt and Tasking Dates.

(1) On 23 August 2012, a complainant called the NPS IG Hotline alleging inappropriate conduct by an NPS employee.

(2) On 23 August 2012, the case information was entered into the Naval Inspector General Hotline Information System (NIGHTS) as number 201102839.

b. Summary of Complaint.

B6, B7C



her signature block in correspondence regarding the Fort Ord Equestrian Center, giving the appearance she was representing the Navy School.

(2) A similar inappropriate conduct B6, B7C was raised in NIGHTS 201201847 that B6, B7C was performing work for a Non-Federal Entity (NFE) during official time and the supervisor, B6, B7C did not take appropriate action when notified that the employee was misusing official time.

(3) A Preliminary Inquiry (PI) completed on 28 August 2012 determined there were sufficient credible facts to open an IG

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investigation to ascertain if [B6, B7C] improperly used her official title and NPS name (suggesting official endorsement by NPS), if she misused her position by conducting Non-Federal Entity (NFE) business during official time, and whether [B6, B7C] took appropriate action when informed of possible employee misconduct.

c. Summary of the Outcome of Investigation. Three allegations were investigated.

(1) The allegation that [B6, B7C] improperly used her official title and organization name in connection with activities performed in her personal capacity, suggesting official endorsement by NPS, was **substantiated**.

(2) The allegation that [B6, B7C] misused official time to support a Non-Federal Entity was **substantiated**.

(3) The allegation that [B6, B7C] failed to take appropriate corrective action when informed of [B6, B7C] misuse of official time was **not substantiated**.

3. Allegation 1. [B6, B7C] improperly used her official title and organization name in connection with activities performed in her personal capacity, suggesting official endorsement by NPS, in violation of Joint Ethic Regulation (JER) 5500.7R, Chapter 3, Section 300. **Substantiated.**

a. Facts.

(1) JER 5500.7R, Chapter 3, Section 300.a(1), Personal Participation in Non-Federal Entities, states in part, "DoD employees may not use or allow the use of their official titles, positions or organization names in connection with activities performed in their personal capacities as this tends to suggest official endorsement or preferential treatment by DoD of any non-Federal entity involved."

(2) (b)(6), (b)(7)c [redacted] civilian, provided email correspondence [B6, B7C] sent to (b)(6), (b)(7)c [redacted] of the National Park Service regarding [B6, B7C] related to horses and the operations at the Marina Equestrian Center. [B6, B7C] believed [B6, B7C] was representing herself as doing business on behalf of the Navy Postgraduate School because she used her official Government email address and signature block in the correspondence.

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(3) Email from B6, B7C Publications/Thesis Processor (b)(6), (b)(7)c sent to (b)(6), (b)(7)c National Park Service, on 1 February 2010 at 12:43 pm regarding the Fort Ord Equestrian Center Query. The email was sent from B6, B7C government computer and included her Naval Postgraduate School signature block. B6, B7C was requesting clarification concerning the Fort Ord Equestrian parcel and asked (b)(6), (b)(7)c to forward his answer to the [Marina] city clerk for council members.

(4) In her testimony, B6, B7C stated she is a very active community activist and the (b)(6), (b)(7)c Fort Ord Warhorse (FFOW). FFOW advocates for trail access from Marina Equestrian Center to Bureau of Land Management (BLM) land. B6, B7C B6, B7C request for information to the National Park Service Rep for Marina, B6, B7C f her activism with FFOW is preserving the historical buildings at the center. B6, B7C stated the letter was not intended to say the Naval Postgraduate School was asking for information or to that she was asking as a Naval Postgraduate School employee. B6, B7C stated her signature block was on the email because it was populated on the email, and she should have deleted it. B6, B7C stated the use of her signature block was inadvertent and not an attempt to influence the National Park Service with her official position or Navy School connection.

b. Analysis/Discussion/Conclusion.

(1) B6, B7C had the impression B6, B7C was representing the Naval Postgraduate School when B6, B7C used her official signature block in email to the National Park Service on unofficial business.

(2) B6, B7C admitted she should have deleted her signature block from the email and including the signature block was not an attempt to influence her request to the National Park Service.

(3) B6, B7C used her official title and organization name in connection with activities performed in her personal capacity, suggesting official endorsement by the Naval Postgraduate School, in violation of JER 5500.7R. Although her use of her official signature

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block in an email to the National Park Service was an oversight and not an attempt to influence the National Park Service, her action was improper. Based on the evidence, we substantiated the allegation.

c. Recommendation. Take appropriate administrative action to hold B6, B7C accountable for improperly using her official title and the Naval Postgraduate School name in connection with her personal activities.

d. Disposition. B6, B7C was counseled by (b)(6), (b)(7)c on 7 Dec 2012 and again by (b)(6), (b)(7)c on 11 Dec 12. Based on the normal annual evaluation of B6, B7C performance and fit within the Research office, which included the IG's findings, B6, B7C appointment was not renewed, and her employment expired on 31 Dec 2012.

4. Allegation 2. B6, B7C misused official time to support Non-Federal Entities in violation of Standards of Conduct, 5 CFR 2635.705. **Substantiated.**

a. Facts.

(1) 5 CFR 2635.705, Use of Official Time, states in part, "Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties."

(2) During an interview for NIGHTS 201201847, (b)(6), (b)(7)c (b)(6), (b)(7)c, stated she personally observed B6, B7C working for a non-profit organization (Keep Fort Ord Wild) on Government time. This happened when B6, B7C was a contractor. B6, B7C stated B6, B7C told her that she thought Administratively Determined (AD) employees were not under the same rules as General Schedule (GS) and could do what she (b)(6), (b)(7)c wanted.

(3) The same facts in allegation one apply.

(4) B6, B7C (b)(6), (b)(7)c testified she was vaguely familiar that B6, B7C was involved in outside activities. B6, B7C recalled at one time B6, B7C passed around a petition about saving the trees at Fort Ord sometime last year [2011].

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(5) [B6, B7C] (b)(6), (b)(7)c testified she is a member along with [B6, B7C] in the Friends of the Fort Ord Warhorse (FFOW). [B6, B7C] was aware [B6, B7C] had attended local

[B6, B7C] [B6, B7C] [B6, B7C] during the workday, but they did talk about outside activities during breaks. [B6, B7C] stated [B6, B7C] is (b)(6) and had the sense from [B6, B7C] that ADs have and expect a certain amount of flexibility to take time off during the middle of the day or work during the evening hours.

(6) [B6, B7C] (b)(6), (b)(7)c testified she recalled a discussion with [B6, B7C] about [B6, B7C] tendency not to be working full-time and conducting personal business during official time. [B6, B7C] stated that she personally witnessed [B6, B7C] coming in at different hours of the day, and was told by other employees that [B6, B7C] was conducting work for her non-profit. This happened around fall 2011.

(7) A review of the Monterey-Salinas Transit (MST) Board of Directors minutes from 9 May 2011 meeting showed [B6, B7C] was listed as present. MST minutes capture [B6, B7C] comments as: "[B6, B7C] Davis stated that the proposed site severs Trail #1, which is the only trail providing access to all other [B6, B7C] trails. She asked the Board to support the broader public interest by withdrawing their appeal to the County Board of Supervisors." The meeting was called to order at 10:00 am. [B6, B7C] Standard Labor Data Collection and Distribution Application (SLDCADA) for 9 May 2011 showed 8 hours of LR (Leave Restored). The Defense Civilian Payroll System (DCPS) did not show [B6, B7C] had any leave restored. [B6, B7C] SLDCADA was not certified by her supervisor.

(8) A review of the Monterey-Salinas Transit (MST) Board of Directors minutes from 13 February 2012 showed [B6, B7C] (b)(6), (b)(7)c was listed present and representing Friends of the Fort Ord Warehouse. MST minutes capture [B6, B7C] comments as: "[B6, B7C] (b)(6), (b)(7)c stated that the Board should represent the public. Ordinary people need access to public land for recreation, and the public was promised a continuous trail from beach to BLM land. She opposes the Whispering

[B6, B7C]

[B6, B7C]

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(9) A review of the Fort Ord Reuse Authority (FORA) Board of B6, B7C
regarding the procedure for the public to contact Board members and B6, B7C
regular time. Her SLDCADA work hours listed are 7:30 am to 4:00 pm. B6, B7C SLDCADA was not certified by her supervisor.

(10) Department of Defense Instruction (DODI) 1406, Attendance and Leave, sub-chapter 2.1.4, Meal Periods, states in part, "Regular meal or lunch periods shall usually be established at no less than 30 minutes or in excess of 1 hour, and shall not be considered as time worked...No employee shall be required to work more than 6 consecutive hours without a meal period."

(11) B6, B7C was listed as a point of contact for forU (organization of Fort Ord Users) about a petition drive to save 4,000 oaks at Fort Ord in the Carmel Residents Association September-October 2011 newsletter. B6, B7C was listed in the article as a team leader for the petition drive.

(12) B6, B7C was listed as the Friends of the Fort Ord Warhorse (FFOW) Coordinator for a MST Development Threat - Your Petition Kit article in the Quicksilver Quips newsletter dated June 2011.

(13) B6, B7C (b)(6), (b)(7)c testified she was aware B6, B7C attended meetings on Fort Ord B6, B7C and recalled B6, B7C asked for time off to attend these meetings. B6, B7C recalled she was informed sometime last year that B6, B7C was performing unofficial business on government time with something going on at Fort Ord, and told B6, B7C she could not use Government "stuff" for private business. B6, B7C stated she explicitly talked to B6, B7C one-on-one about performing unofficial business but also mentioned it at staff meetings. B6, B7C stated she was under the impression that B6, B7C "got it" and the conduct stopped. B6, B7C recalled that B6, B7C came to her and stated the conduct had continued, but believed B6, B7C needed more work to keep her busy

B6, B7C
B6, B7C
(b)(6), (b)(7)c, to use B6, B7C

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for thesis editing. B6, B7C stated there was an B6, B7C with (b)(6) (b)(6), (b)(7)c but she addressed the B6, B7C and thought it was taken care of. She did not take any disciplinary action on the matter.

(14) In her testimony, B6, B7C stated she generally does writing and editing for theses, the research newsletter, compilation of thesis abstracts, posters and other miscellaneous tasks. She stated her work hours are 9:00 am to 5:00 pm. B6, B7C stated she is a community activist, is the (b)(6), (b)(7)c (b)(7)c, (b)(6), and attends meetings as a representative of FFOW. B6, B7C stated that she does not send FFOW information on company time. B6, B7C did not recall attending the 8 June 2012 FORA meeting and assumed if she was at the meeting at 3:30 or 4:00, she made up the hours because she is a salary employee. B6, B7C stated there was a petition in the summer of 2011 to prevent 4,000 Oak Trees from being cut down for a MST maintenance area along the BLM access trail. The petition drive [objective] was to get enough signatures to put a referendum on the ballot. B6, B7C stated she was told not to circulate the petition in the office by B6, B7C. She could not recall who signed the petition, but believes B6, B7C and (b)(6) (b)(7)c signed it. B6, B7C stated she is not paid for her involvement in outside organizations. B6, B7C did not recall if (b)(6) (b)(7)c counseled her on conducting or supporting outside activities on official time.

b. Analysis/Discussion/Conclusion.

(1) At least three employees and B6, B7C supervisor were aware B6, B7C supported or conducted work for at least two Non-Federal Entities (FFOW and the forU petition drive) during official time.

(2) B6, B7C stated she counseled B6, B7C about performing unofficial business during official time.

(3) B6, B7C was aware of B6, B7C community activism and granted time off to B6, B7C to attend meetings as reflected in (b)(6) (b)(7)c SLDCADA. However, there was one incorrect SLDCADA code of LR (Leave Restored) used for 9 May 2011 that should be coded LA (Leave Annual), but DCPS would automatically use annual leave if an employee does not have any restored leave. There was no indication of leave to

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reflect B6, B7C attendance at the 8 June 2012 FORA meeting during her stated work hours of 9:00 am to 5:00 pm.

(4) B6, B7C work hours are problematic. B6, B7C told other employees and testified that because she was an (b)(6) employee, she had more flexibility in her schedule to make up hours. B6, B7C stated her normal working hours are 9:00 am to 5:00 pm, but her SLDCADA reflects 7:30 am to 4:00 pm. Working a 9:00 am to 5:00 pm shift does not incorporate a lunch break/meal period [working straight 8 hours] as required in DODI 1406. Working straight 8 hours without a lunch break/meal period is not permissible because it would imply NPS provides a paid lunch break. There was no indication B6, B7C voluntarily worked straight 8 hours with her supervisor's approval.

(5) B6, B7C misused official time to support Non-Federal Entities (NFEs) in violation of Standards of Conduct, 5 CFR 2635.705. B6, B7C is a community activist and supported NFEs on government time. Although B6, B7C did not recall being verbally counseled by

B6, B7C
B6, B7C
B6, B7C
B6, B7C denied sending FFOW email on government time, but sent at least one email to the National Park Service on a matter pertaining to FFOW. Further, B6, B7C displayed a tendency to work hours that were not standard or as reported in SLDCADA. B6, B7C did not annotate SLDCADA leave for her attendance at the 8 June 2012 FORA meeting. The preponderance of evidence shows B6, B7C supported and conducted business for NFEs on official time. Based on the evidence, we substantiated the allegation.

c. Recommendation.

(1) Take appropriate administrative action to hold B6, B7C accountable for misused official time to support Non-Federal Entities.

(2) B6, B7C Supervisor:

(a) Correct B6, B7C SLDCADA for 8 June 2012 to reflect her attendance at the FORA meeting (LA for 2 hours - 3:00 to 5:00).

(b) Reiterate official work hours, meal period guidance and leave procedures for B6, B7C [RSPO Thesis Processing published office guidelines on 5 June that outlined work hours, lunch breaks and leave procedures for office personnel.]

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(c) Certify B6, B7C SLDCADA each pay period.

d. Disposition. B6, B7C was counseled by (b)(6), (b)(7)c on 7 Dec 2012 and again by (b)(6), (b)(7)c on 11 Dec 12. Based on the normal annual evaluation of B6, B7C performance and fit within the Research office, which included the IG's findings, B6, B7C appointment was not renewed, and her employment expired on 31 Dec 2012.

5. Allegation 3. B6, B7C failed to take appropriate corrective action when informed of B6, B7C misuse of official time in violation of Department of the Navy Civilian Human Resources Manual Subchapter 752, Paragraph 7e. **Not Substantiated.**

a. Facts.

(1) Department of the Navy Civilian Human Resources Manual Subchapter 752, Paragraph 7e, Responsibilities for Managers and Supervisors, states in part, "Managers and Supervisors are responsible for...(3) Monitoring employee conduct and taking or initiating appropriate corrective action as required."

(2) B6, B7C testified she personally observed B6, B7C working for Keep Fort Ord Wild on Government time, reported the B6, B7C to B6, B7C and was told "Oh, that's B6, B7C B6, B7C believed no corrective action was taken by B6, B7C

(3) Same facts in allegation one and two apply.

(4) B6, B7C Grants Management Specialist, testified she recalled at one meeting B6, B7C reiterated something to the effect of not conducting personal business during official time.

(5) B6, B7C testified she recalled a discussion with (b)(6) (b)(7)c about B6, B7C tendency not to be working full-time and conducting personal business during official time. B6, B7C stated that she personally witnessed B6, B7C coming in at different hours of the day, and was told by other employees that B6, B7C was conducting work for her non-profit. This happened around fall 2011.

(6) B6, B7C recalled she was informed sometime last year that B6, B7C was performing unofficial business on government time with something going on at Fort Ord. B6, B7C stated she explicitly

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talked to B6, B7C one-on-one about performing unofficial business but also mentioned it at staff meetings. B6, B7C stated she was under the impression that B6, B7C "got it" and the conduct stopped. B6, B7C stated she verbally addressed the B6, B7C but did not take any (b)(6), (b)(7)c on the matter. B6, B7C recalled that (b)(6) (b)(7)c came to her and stated the conduct had continued, but believed B6, B7C needed more work to keep her busy and told B6, B7C if the conduct continued to let her know. B6, B7C stated that (b)(6) (b)(7)c was underutilized and she allowed (b)(7)c, (b)(6) Processor, to use B6, B7C for thesis editing. B6, B7C stated there was an B6, B7C with B6, B7C but she addressed the B6, B7C and thought it was taken care of.

b. Analysis/Discussion/Conclusion.

(1) B6, B7C and B6, B7C provided credible statements that B6, B7C addressed performing unofficial business during government time at staff meetings.

(2) B6, B7C could not recall being counseled by B6, B7C about performing unofficial business.

(3) B6, B7C did take appropriate corrective action when informed of B6, B7C misuse of official time. The preponderance of evidence showed B6, B7C not only verbally addressed with B6, B7C about performing unofficial business during government time, but also addressed the matter at staff meetings that employees attend. (b)(6) (b)(7)c statement that B6, B7C behavior continued and B6, B7C did nothing was contrary to witness statements. Further, B6, B7C believed B6, B7C was underutilized and expanded her duties to support thesis processing under (b)(6), (b)(7)c. There was no substantial evidence to show that B6, B7C was aware if B6, B7C behavior continued after she (b)(7)c, (b)(6) B6, B7C and increased her duties. Based on the evidence, the allegation was not substantiated.

c. Recommendation. The (b)(6), (b)(7)c review the workload and utilization for B6, B7C and determine if the position duties require full-time or part-time work.

d. Disposition. None.

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6. Interview and Documents.

a. Interviews conducted.

- (1) B6, B7C (Subject), (b)(6), (b)(7)c
for the Research Office.
- (2) B6, B7C (Subject), (b)(6), (b)(7)c
(b)(6), (b)(7)c
- (3) B6, B7C (Complainant), (b)(6), (b)(7)c
- (4) B6, B7C (Witness), (b)(7)c
(b)(6)
- (5) B6, B7C (Witness), (b)(6) Specialist.
- (6) B6, B7C (Witness), (b)(6)
(b)(7)c
- (7) B6, B7C (Witness), (b)(6), (b)(7)c
- (8) B6, B7C (Witness),

b. Documents Reviewed.

- (1) Email dated 1 February 2010 subject: Fort Ord Equestrian Center Query from B6, B7C to (b)(6), (b)(7)c
- (2) Complaint support documentation from B6, B7C
- (3) B6, B7C SLDCADA records.
- (4) Monterey-Salinas Transit (MST) Board Meeting Minutes.
- (5) Fort Ord Reuse Authority (FORA) Board Meeting Minutes.
- (6) News articles and publications mentioning B6, B7C and her connection to community activism with Fort Ord matters.
- (7) Email from B6, B7C dated 9 September 2012 subject: Re: NPS Inspector General Request for Interview.

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